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7 UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

10 FLIGHTCAR, INC.,

11 Plaintiff,

12 vs.

13 CITY OF MILLBRAE, and DOE 1 through
14 DOE 50,

15 Defendants.
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Case No: C 13-5802 SBA

**ORDER DENYING DEFENDANT'S
ADMINISTRATIVE MOTION**

Dkt. 41

18 Plaintiff FlightCar, Inc., filed the instant action against the Defendant City of
19 Millbrae to challenge its revocation of Plaintiff's Conditional Use Permit ("CUP"). The
20 Amended Petition/Complaint alleges claims for: (1) a writ of mandate pursuant to Cal. Civ.
21 Code § 1085; (2) a writ of mandate pursuant to Cal. Civ. Code § 1094.5; (3) violation of 42
22 U.S.C. § 1983 for deprivation of due process and equal protection, violation of the first
23 amendment and for unlawful taking; (4) inverse condemnation; and (5) declaratory relief.
24 Dkt. 40. On June 24, 2014, the Court entered a scheduling order pursuant to Federal Rule
25 of Civil Procedure 16, which, inter alia, scheduled a trial date of October 26, 2015. Dkt.
26 38. The Court referred the action to Magistrate Judge Laurel Beeler for an early mandatory
27 settlement conference to take place within 90 days of the case management conference.
28 Dkt. 37.


1 Defendant has now filed a Motion for Administrative Relief Re: Setting the
2 Briefing Schedule for Plaintiff's Writ of Mandate; Stay of Discovery Pending Writ
3 Resolution. Dkt. 41. In particular, Defendant seeks the imposition of a briefing schedule
4 for the early resolution of Plaintiff's mandamus claims (i.e., the first and second claims)
5 and to stay discovery in the action until those claims are resolved. Dkt. 41. According to
6 Defendant, the mandamus claims will finally determine whether the CUP revocation was
7 proper, and that such determination will be dispositive of Plaintiff's remaining claims for
8 damages. Defendant further contends that because no discovery is necessary in a
9 mandamus action, the Court should direct the parties to brief the mandamus claims on an
10 expedited basis.

11 The Court finds that Defendant has failed to establish good cause for the early
12 resolution of Plaintiff's mandamus claims. Despite Defendant's suggestion to the contrary,
13 state law mandamus proceedings do not have preclusive effect on § 1983 claims. See
14 Honey v. Distelrath, 195 F.3d 531 (9th Cir. 1999) (holding that mandamus actions cannot
15 bar subsequent § 1983 claims); Weinberg v. Whatcom Cnty., 241 F.3d 746 (9th Cir. 2001)
16 (citing Honey with approval and finding that a mandamus action cannot be the basis of a
17 later claim preclusion bar). That aside, Defendant has failed to make a persuasive showing
18 that an early and separate resolution of Plaintiff's mandamus claims will promote judicial
19 economy or serve the interests of justice. Accordingly,

20 IT IS HEREBY ORDERED THAT Defendant's administrative motion is DENIED.

21 IT IS SO ORDERED.

22 Dated: July 25, 2014

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24 SAUNDRA BROWN ARMSTRONG
25 United States District Judge
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